

or petition has been filed. Petitions must be served upon the applicant, and must contain a complete and detailed showing, supported by affidavit, of any facts or considerations relied upon. The applicant may file an opposition to the petition to deny within 30 days after the filing of the petition, and must serve copies upon all persons who have filed petitions to deny. The Commission, after consideration of the pleadings, will determine whether the public interest, convenience and necessity would be served by the grant or denial of the application, in whole or in part. The Commission may specify other procedures, such as oral argument, evidentiary hearing or further written submission directed to particular aspects, as it deems appropriate.

NOTES: In these grandfathered situations, we will consider granting waivers to permit the use of a second MDS channel for the delivery of locally produced programming. Because allocating a second channel to this use would further reduce the channel capacity available for wireless cable service, we will require an applicant for the second channel to demonstrate, at a minimum, that it is ready and able to provide additional locally produced programming to area cable systems, and that no other practical means of delivering the programming are available to it. In considering requests for waiver, we will also take into account the competitive environment for the production and delivery of locally produced programming in the relevant markets.

[55 FR 46011, Oct. 31, 1990, as amended at 56 FR 57818, Nov. 14, 1991; 58 FR 42018, Aug. 6, 1993; 58 FR 45064, Aug. 26, 1993; 61 FR 15387, Apr. 8, 1996]

#### **§ 21.913 Signal booster stations.**

(a) Authorizations for Multipoint Distribution Service (MDS) booster stations may be granted to an MDS applicant, conditional licensee or licensee, to an Instructional Television Fixed Service (ITFS) applicant, permittee or licensee, or to a third party with a fully-executed lease agreement with an MDS or ITFS applicant, conditional licensee, permittee, or licensee. A signal booster station may not extend service beyond the boundaries of an MDS station's protected service

area. No booster station may be authorized for the retransmission of signals from an MDS, ITFS, or OFS station without the written consent of the licensee of the station whose signals are retransmitted.

(b) In addition to the other application requirements of this part, each application for a signal booster station that would retransmit an MDS signal must certify that the proposed booster station site is within the protected service area, as defined in §§ 21.902(d) and 21.933, of the MDS station.

(c) In addition to the other application requirements of this part, each application for a signal booster station that would retransmit an MDS signal must state in the application that it has prepared a study which demonstrates that the power flux density at the edge of the MDS protected service area does not exceed  $-73.0$  dBW/m<sup>2</sup> at locations for which there is an unobstructed signal path to the boundary.

(d) In addition to the other application requirements of this part, each application for a signal booster station must state in the application that it has prepared a study which demonstrates that the proposed booster station will cause no harmful interference to co-channel and adjacent-channel existing or previously-proposed ITFS and MDS stations with transmitters within 80.5 kilometers (50 miles) of the proposed booster station's transmitter site.

(e) In addition to the other application requirements of this part, each application must include a written consent statement of the licensee of each MDS, ITFS, and OFS station whose signal is retransmitted.

(f) The output power of the signal booster transmitter station must not exceed 18 dBW EIRP.

(g) An MDS or ITFS licensee may install and commence operation of a signal booster station that has a maximum power level of  $-9$  dBW EIRP and that does not extend service beyond the boundaries of an MDS station's protected service area or beyond an ITFS licensee's registered receive site, subject to the condition that for sixty (60) days after installation, no objection or petition to deny is filed by an authorized co-channel or adjacent

channel ITFS or MDS station with a transmitter within 8.0 kilometers (5 miles) of the coordinates of the primary transmitter of the signal booster. An MDS or ITFS licensee seeking to install a signal booster under this Section must, within 48 hours after installation, submit a certification that:

(1) The maximum power level of the signal booster transmitter does not exceed  $-9$  dBW EIRP;

(2) A description of the signal booster technical specifications (including antenna gain and azimuth), the coordinates of the booster and receivers, and the street address of the signal booster;

(3) No registered receiver of an ITFS E or F channel station, constructed prior to May 26, 1983, is located within a 1.6 kilometer (1 mile) radius of the coordinates of the booster, or in the alternative, that a consent statement has been obtained from the affected ITFS licensee;

(4) No environmental assessment location as defined at §1.1307 of this chapter is affected by installation and/or operation of the signal booster;

(5) Each MDS and/or ITFS station licensee with protected service areas or registered receivers within a 8.0 kilometer (5 mile) radius of the coordinates of the booster has been given notice of its installation;

(6) Consent has been obtained from each MDS or ITFS station licensee whose signal is repeated by the signal booster;

(7) The signal booster site is within the protected service area of the MDS station, if the signal of an MDS station is repeated;

(8) The power flux density at the edge of the MDS station's protected service area does not exceed  $-73.0$  dBW/m<sup>2</sup>, if the signal of an MDS station is repeated;

(9) The antenna structure will extend less than 6.10 meters (20 feet) above the ground or natural formation or less than 6.10 meters (20 feet) above an existing manmade structure (other than an antenna structure); and

(10) The MDS or ITFS licensee understands and agrees that in the event harmful interference is claimed by the filing of an objection or petition to deny, the licensee must terminate operation within two (2) hours of written

notification by the Commission, and must not recommence operation until receipt of written authorization to do so by the Commission.

[55 FR 46012, Oct. 31, 1990, as amended at 56 FR 57599, Nov. 13, 1991; 58 FR 11798, Mar. 1, 1993; 58 FR 44896, Aug. 25, 1993; 60 FR 36554, July 17, 1995]

**§21.914 Mutually-exclusive MDS applications.**

Notwithstanding the provisions of §21.31 (b)(2)(i) and (ii) of this part, to be entitled to be included in a random selection process or to comparative consideration with one or more conflicting applications, an application for frequencies at 2150–2162 MHz, 2596–2644 MHz, 2650–2656 MHz, 2662–2668 MHz, or 2674–2680 MHz must be received by the Commission in a condition acceptable for filing on the same calendar day as the first of the conflicting applications is received by the Commission in a condition acceptable for filing.

[55 FR 46012, Oct. 31, 1990, as amended at 56 FR 57819, Nov. 14, 1991]

**§21.915 One-to-a-market requirement.**

Each applicant may file only a single Multipoint Distribution Service application for the same channel or channel group in each area. The stockholders, partners, owners, trustees, beneficiaries, officers, directors, or any other person or entity holding, directly or indirectly, any interest in one applicant or application for an area and channel or channel group, must not have any interest, directly or indirectly, in another applicant or application for that same area and channel or channel group.

[58 FR 11799, Mar. 1, 1993]

**§21.920 Applicability of cable television EEO requirements to MDS and MMDS facilities.**

Notwithstanding other EEO provisions within §1.815 of this chapter and §21.307, an entity that uses an owned or leased MDS, MMDS and/or ITFS facility to provide more than one channel of video programming directly to the public must comply with the equal employment opportunity requirements set forth in part 76, subpart E of this chapter, if such entity exercises control (as